

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 2:20-cr-134-SPC-MRM

MARVIN HARRIS, JR. and  
DESTINY MOLINA

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**Evidentiary Hearing**

Presiding Judge:	United States District Judge Sheri Polster Chappell
Counsel for Plaintiff:	Michael V. Leeman
Counsel for Defendant:	Joseph Viacava (Marvin Harris, Jr.)
Stand-In CJA Counsel:	Burt H. Stutchin (Marvin Harris, Jr.)
Counsel for Defendant:	Sean O'Halloran
Date and Time:	September 9, 2021 @ 1:30 PM
Deputy Clerk:	Allison Holland
Court Reporter:	Stacey Raikes
Interpreter:	

Start Time: 1:32pm      Court convenes.

AUSA Leeman present on behalf of the Government, Attorney O'Halloran present on behalf of Defendant Destiny Molina, who is also present in Court, Attorney Viacava present on behalf of Defendant Marvin Harris Jr., who is also present in Court, Attorney Stutchin present as back-up stand-in (CJA) counsel for Defendant Marvin Harris.

Hearing set for today on Government's motion for inquiry as to the representation of Attorney Viacava for both defendants Harris and Molina. The Court reviews the record, outlining the timeline of representation by counsel of each defendant.

AUSA Leeman presents argument summarizing concerns regarding representation of multiple defendants; case law cited for court's review.

Attorney Viacava responds, represents no conflict; argues no basis for inquiry.

Attorney O'Halloran has nothing to add at this time.

The Court will proceed with hearing to ensure no issues moving forward in either case.

1:53pm Attorney Viacava, Attorney Stutchin, and AUSA Leeman step out of courtroom to allow Court inquiry of Defendant Molina; Defendant Harris taken back to holding cell.

The Court inquires of Destiny Molina.

Attorney O'Halloran advises he has no concerns regarding Molina's competency and confirms she has been able to effectively communicate and assist with her defense throughout case.

The Court continues inquiry of Destiny Molina, inquires of 3-way calling procedure she participated in between Marvin Harris and Attorney Viacava, as well as any discussions she may have had with counsel.

Molina advises she would like to waive any conflict and allow Viacava to remain on Marvin Harris's case. The Court inquires of Molina as to (potential for) specific conflicts going forward; defendant declines issue, maintains waiver of conflict.

2:13pm Molina and O'Halloran excused.

2:14pm Attorney Viacava and Attorney Stutchin back in the courtroom; Defendant Harris brought back into courtroom.

The Court advises Harris of rights, specifically right to counsel and right speak with independent counsel (Stutchin); defendant advises he understands rights.

Attorney Viacava confirms he has no concerns regarding the competency of Harris.

The Court addresses Marvin Harris, explaining potential conflicts that may arise. The defendant understands the conflicts (potential for) as outlined by the Court.

Attorney Viacava advises no concerns and no objections regarding Court's inquiry.

The Court inquires of Marvin Harris.

The Court inquires of Attorney Joe Viacava; counsel responds.

Marvin Harris, Jr. advises he does not wish to speak with Mr. Stutchin at this time, he understands the potential conflicts and his rights as the Court has explained to him. Defendant wants to keep Attorney Viacava as counsel on his case, waives conflict.

2:32pm Court takes brief recess.

2:49pm Back on the record.

AUSA Leeman, Attorney O'Halloran, Defendant Destiny Molina, Attorney Viacava, Defendant Marvin Harris and CJA Counsel Stutchin are all present in the courtroom.

The Court summarizes hearing, rights of each defendant and representations made to the Court for consideration.

For the reasons stated on the record, the Court will allow Defendant Marvin Harris to proceed with Attorney Viacava.

There are no other matters to address. Counsel and parties are excused, the Court is in recess.

End time: 2:58pm